IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 187 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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MEHTA INVESTMENTS & TRADERS PVT LTD

Versus

COMMISSIONER OF INCOME TAX

Appearance:
NOTICE SERVED for Petitioner No. 1
MR BB NAIK for MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 04/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the assessee, the following question of law has been referred to this court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 by the Income Tax Appellate Tribunal Ahmedabad Bench 'B'.

"Whether, on the facts and circumstances of the case, the Tribunal was correct in law in holding that accounts in current accounts in the names of directors were 'DEPOSITS' within the meaning of Sec.40A(8) of the Income-tax Act, 1961 and therefore the Income-tax Officer was justified in disallowing u/s 40A(8) 15% of the interest of Rs. 3,30,446/- paid on such accounts?"

2. Though served, nobody has appeared for the applicant-assessee. Learned advocate Shri B.B. Naik has appeared for the revenue.

3. The question involved in this reference is with regard to disallowance of 15% of interest given on deposits by the assessee company to its directors.

4. Learned advocate Shri Naik has drawn our attention to the case of Agew Steel Manufacturers Pvt. Ltd. CIT, 209 ITR 77 which covers the issue which is involved in the present reference. Looking to the law laid down by this court in the case of Agew Steel Manufacturers (supra), in our opinion, the Tribunal was justified in disallowing 15% of the interest under the provisions of sec. 40A(8) of the Act.

5. In the circumstances, we answer the question in the affirmative i.e. in favour of the revenue and against the assessee.

The reference stands disposed of accordingly with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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